IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

NCS MULTISTAGE INC., *Plaintiff*	§	
	§	
	§	**6:20-CV-00277-ADA**
-v-	§	
	§	
NINE ENERGY SERVICE, INC., *Defendants.*	§	
	§	
	§	

SUPPLEMENTAL CLAIM CONSTRUCTION ORDER

On January 14, 2021, the Court entered its Claim Construction Order construing the terms "rupture disc is configured to disengage from sealing engagement when exposed to a pressure greater than a hydraulic pressure in the casing string" and "disengage the rupture disc from sealing engagement" by their plain and ordinary meaning. *See* ECF No. 56. On June 22, 2021, NCS sought further clarification from the Court on its constructions citing the parties' "different view of what the plain and ordinary meaning of Terms 8 and 9 actually is." ECF No. 87-1 at 4. To avoid any problems going forward and to comply with *O2 Micro Int'l Ltd. v. Beyond Innovation Tech. Co.*, the Court clarifies the above constructions. 521 F.3d 1351 (Fed. Cir. 2008).

To assist with clarification, the parties narrowed the dispute to the term "disengage…from sealing engagement" and submitted three-page briefs on an expedited schedule to keep with the procedural schedule of the case. *See* ECF Nos. 87 and 89. Taking the parties briefs into consideration, the Court clarifies the term "disengage…from sealing engagement" to mean "before rupturing, move the rupture disc downhole relative to the region."

The specification in the '445 Patent teaches: (i) the rupture disc assembly requires less hydraulic pressure because the disc disengages at a lower pressure to accelerate to impact, (ii) the

combination of hydraulic pressure accelerating the disc and its impact ensure a complete rupture of the disc, (iii) the disengaging and accelerating of the disc to impact is more precise, whereas merely using hydraulic pressure may cause premature rupture of the disc due to point loading and imperfections in the disc during machining, (iv) when using hydraulic pressure alone each disc would have to be modified to suit a particular hydraulic pressure rating, which is difficult and time consuming, and (v) when using hydraulic pressure alone the disc would have to be thinner, which is difficult to achieve and more likely to prematurely break. '445 Patent at 11:27-12:6. There is no mention in the '445 Patent where the rupture disc ruptures while stationary.

Because of the Court's clarification of the term, an extension of the procedural schedule is appropriate to allow Defendant time to reevaluate its invalidity contentions and prepare expert reports to account for this clarified construction. The parties are instructed to meet and confer on constructing a new schedule. If the Court's assistance is needed, the parties are instructed to contact the clerk on this case to set a hearing.

SIGNED this 7th day of July, 2021.

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE